

### REMARKS

This application has been carefully reviewed in light of the Office Action dated December 17, 2002 (Paper No. 9). Claims 1, 6 to 19, 24, 25 and 28 are in the application, with Claim 28 being newly-added. Claims 1, 19 and 28 are the independent claims. Reconsideration and further examination are respectfully requested.

It is noted that this Amendment has been prepared in accordance with the revised format set forth in the Pre-Official Gazette notice entitled "Amendments in a Revised Format Now Permitted" signed January 31, 2003, posted on the USPTO web site.

Claim 5 was subject only to a formal rejection entered under 35 U.S.C. § 112, second paragraph. The subject matter of Claim 5, as rewritten to attend to the § 112 rejection, has been incorporated into independent Claim 1. Accordingly, Claim 1, together with its respective dependent claims, is believed to be in condition for allowance.

Claims 1 to 4 and 6 to 27 were rejected under 35 U.S.C. § 102(a) over JP 2000-321206 (Yurino). Without conceding the correctness of the rejection and solely to expedite prosecution, Claim 5 has been cancelled, with its subject matter being incorporated into Claim 1 (as mentioned above); Claims 2 to 4, 20 to 22, 26 and 27 have been cancelled without prejudice or disclaimer of subject matter; and Claims 6 to 11, 17 and 18 have been rewritten to be consistent with the cancellation of Claim 2. In addition, Claim 23 has been cancelled, with its subject matter being incorporated into independent Claim 19. This should be viewed as a traversal of the rejection of Claim 23. Reconsideration and withdrawal of the § 102(a) rejection is respectfully requested.

The present invention as recited by amended Claim 1 concerns a method for measuring fluorescence emitted from samples on a measuring surface of a substrate by

illuminating the samples with excitation light. An excitation light illumination portion and a light detecting portion are placed in such a manner as to make it possible to prevent the excitation light from approaching the light detecting portion where measurements are made of the fluorescence. The fluorescence emitted from the samples is measured relatively moving the samples or the measuring surface of the substrate from the excitation light illumination portion to the light detecting portion after illuminating the samples with excitation light. The relative movement of the samples forms a circular orbit on the measuring surface of the substrate. A rotational movement of the excitation light illumination portion and the light detecting portion forms the circular orbit on the measuring surface.

The present invention as recited by amended Claim 19 concerns a fluorometric device which includes an excitation light illumination portion where samples on a measuring surface of a substrate are illuminated with excitation light, and a light detecting portion where measurements of the fluorescence emitted from the samples is performed. The excitation light illumination portion and the light detecting portion are placed in such a manner as to make it possible to prevent the excitation light from approaching the light detecting portion. A means is provided for relatively moving the samples on the measuring surface of the substrate from the excitation light illumination portion to the light detecting portion. The means is such that it moves the substrate having the samples placed thereon relative to the excitation light illumination portion and the light detecting portion while allowing the same to form a circular orbit on the measuring surface. The means is such that it rotationally moves a detector.

Thus, according to a feature of the invention as recited by Claims 1 and 19, a rotational movement of an excitation light illumination portion and a light detecting portion (Claim 1) or a rotational movement of a detector (Claim 19) forms a circular orbit on the measuring surface. By virtue of this feature, it is possible to measure fluorescence emitted from samples without moving the substrate on which the samples are arranged.

Yurino is not seen to teach or suggest at least the foregoing feature.

According to Yurino, fluorescence emitted from the samples (11) is measured by rotating a circular biochip (10) on which the samples (11) are arranged. See abstract and Figs. 1 and 2 of Yurino. Neither of Yurino's excitation application optical system (40) and fluorescence detection optical system (50) is rotated to form a circular orbit on a measuring surface of the biochip (10).

Applicants therefore conclude that Yurino does not teach or suggest the claimed invention as recited by Claims 1 and 19, and it is respectfully requested that the Section 102 rejection be withdrawn.

The present invention as recited by newly-added Claim 28 concerns a method for measuring fluorescence emitted from samples on a measuring surface of a substrate by illuminating the samples with excitation light. An excitation light illumination portion and a light detecting portion are placed in such a manner as to make it possible to prevent the excitation light from approaching the light detecting portion where measurements are made of the fluorescence. The fluorescence emitted from the samples is measured by moving the excitation light illumination portion and the light detecting portion to the samples.



Thus, according to one feature of the invention as recited by Claim 28, the fluorescence emitted from the samples is measured by moving the excitation light illumination portion and the light detecting portion to the samples.

Yurino also is not seen to teach or suggest the foregoing feature.

In Yurino, the fluorescence emitted from the samples (11) is not measured by moving the excitation application optical system (40) and the fluorescence detection optical system (50) to the samples. Rather, as discussed above, fluorescence emitted from the samples (11) is measured by rotating the circular biochip (10).

Accordingly, newly-added Claim 28 is also believed to be allowable over the applied art.

No other matters being raised, it is believed that the entire application is fully in condition for allowance, and such action is courteously solicited.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

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